

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Drew Frescoln

(b) County of Residence of First Listed Plaintiff Delaware
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Law Offices of Robert T Vance Jr, 100 South Broad
Street, Suite 905, Philadelphia PA 19110 (215) 557-9550**DEFENDANTS**

Swarthmore College

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input checked="" type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions](#).

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	422 Appeal 28 USC 158	375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud		430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending		450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage		460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability		470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice			490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise				850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	861 HIA (1395ff)	890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	862 Black Lung (923)	891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input checked="" type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	863 DIWC/DIWW (405(g))	893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	864 SSID Title XVI	895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	865 RSI (405(g))	896 Arbitration
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:	FEDERAL TAX SUITS	899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other	870 Taxes (U.S. Plaintiff or Defendant)	950 Constitutionality of State Statutes
		<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 871 IRS—Third Party	
		<input type="checkbox"/> 555 Prison Condition	26 USC 7609	
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
IMMIGRATION				
		<input type="checkbox"/> 462 Naturalization Application		
		<input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC Section 1981**VI. CAUSE OF ACTION**Brief description of cause:
Employment discrimination - race**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.**DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE NONE

DOCKET NUMBER _____

DATE

August 2, 2021

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: _____

Delaware County, Pennsylvania

Address of Defendant: _____

Swarthmore, Pennsylvania

Place of Accident, Incident or Transaction: _____

Swarthmore, Pennsylvania**RELATED CASE, IF ANY:**Case Number: **NONE**

Judge: _____

Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.DATE: August 2, 2021*Robert T Vance Jr*
Must sign here**37692**

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)**A. Federal Question Cases:**

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
 - 2. FELA
 - 3. Jones Act-Personal Injury
 - 4. Antitrust
 - 5. Patent
 - 6. Labor-Management Relations
 - 7. Civil Rights
 - 8. Habeas Corpus
 - 9. Securities Act(s) Cases
 - 10. Social Security Review Cases
 - 11. All other Federal Question Cases
- (Please specify): _____

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): _____
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases (Please specify): _____

ARBITRATION CERTIFICATION
(The effect of this certification is to remove the case from eligibility for arbitration.)I, Robert T Vance Jr, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

Relief other than monetary damages is sought.

DATE: August 2, 2021*Robert T Vance Jr*
Sign here if applicable**37692**

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

United States District Court for the Eastern District of Pennsylvania

Drew Frescoln :
vs : Civil Action No.
Swarthmore College : Jury Trial Demanded

Complaint

Plaintiff, Drew Frescoln, brings a series of claims against defendant, Swarthmore College, of which the following is a statement:

Jurisdiction and Venue

1. This Court has original jurisdiction to hear this Complaint and adjudicate the claims stated herein under 28 U.S.C. §§ 1331 and 1343, this action being brought under the Civil Rights Act of 1866, 42 U.S.C. § 1981 (“Section 1981”), and the Civil Rights Act of 1991, Pub. L. 102-166, 105 Stat. 1071 (Nov. 21, 1991). This Court may exercise supplemental jurisdiction over Ms. Clemente’s state law claims pursuant to 28 U.S.C. § 1337.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1331(b) in that defendant is a resident of this judicial district and a substantial part of the events and omissions giving rise to this cause of action occurred in this judicial district.

The Parties

3. Plaintiff, Drew Frescoln, is a White male citizen of the United States and a resident of this judicial district.

4. Defendant, Swarthmore College, is a private liberal arts college located in Swarthmore, Pennsylvania.

5. At all times relevant to this action, defendant was an “employer” within the meaning of Section 1981 and applicable state law.

6. The acts set forth in this Complaint were authorized, ordered, condoned, ratified and/or done by defendant’s officers, agents, employees and/or representatives while actively engaged in the management of defendant’s business.

Background Facts

7. Drew Frescoln worked for defendant as a part-time Public Safety Officer (PSO) in the Public Safety Department from September 2008 until his employment was terminated on May 4, 2021 because of his race.

8. At all times relevant to this Complaint, Mr. Frescoln satisfactorily performed the duties of a PSO. He typically worked 28-30 hours/week.

9. In or about February 2020, defendant hired Candis Evans, a Black female, as a Sergeant in the Public Safety Department.

10. Sgt. Evans had 15 subordinate employees: 10 PSOs, including Mr. Frescoln, and 5 Corporals.

11. From the inception of her employment, Sgt. Evans unfairly and routinely criticized Mr. Frescoln’s performance and the performance of her non-Black subordinates, and treated Mr. Frescoln in an unprofessional manner.

12. In mid-October 2020, without justification, Sgt. Evans issued a written disciplinary warning to Mr. Frescoln for lateness and insubordination related to an incident that occurred on October 8, 2020.

13. In response, Mr. Frescoln complained to defendant’s Human Resources Department about Sgt. Evans’s conduct towards him, including

- a. continual treatment in an unprofessional manner;
- b. unfairly criticizing him about the manner in which he conducted a building check;
- c. favoritism shown by Sgt. Evans to her non-Black subordinates;
- d. Sgt. Evans soliciting from other employees their assessment of Mr. Frescoln's performance, but failing to solicit from Mr. Frescoln his assessment of other employees;
- e. criticizing him for allegedly arriving late to work in the presence of other employees; and
- f. Sgt. Evans's attempt on October 23, 2020 to discipline Mr. Frescoln in the presence of other employees.

14. Defendant's Human Resources Department did not take Mr. Frescoln's complaints against Sgt. Evans seriously, and contrary to policy, referred it to the Public Safety Department.

15. John S. Bera, defendant's Associate Director of Public Safety, allegedly investigated Mr. Frescoln's complaints against Sgt. Evans. On or about October 28, 2020, Mr. Bera submitted the report of his investigation to defendant's Director of Public Safety, Michael Hill. In his report, Mr. Bera found that the vast majority of Mr. Frescoln's complaints were either unfounded or unsubstantiated.

16. There was no basis for the conclusions found by Mr. Bera, and his investigation was inadequate and biased against Mr. Frescoln because of his race.

17. Subsequent to the issuance of the report by Mr. Bera, Sgt. Evans continued to unfairly and without justification criticize Mr. Frescoln's job performance, including reducing his hours to 20 hours/week, and in so doing created and perpetuated a hostile work environment based on his race.

18. In March 2021, consistent with defendant's policies and procedures, in advance of the start of his shift, Mr. Frescoln called out from work because his son suffered a head injury.

19. Defendant contended, however, that Mr. Frescoln violated its policies and procedures in connection with calling out from work. As a consequence, defendant, without justification, disciplined Mr. Frescoln by requiring that he submit to verbal counseling.

20. On or about May 4, 2021, Mr. Frescoln was summoned to a Zoom meeting with Mr. Hill and Paula MacDonald, defendant's Director of Human Resources. During the meeting, Mr. Frescoln was told by Mr. Hill that he was being terminated because he was late to work in March and that he was combative.

21. In a text message later that day, Mr. Hill stated to Mr. Frescoln, "I appreciate your service, but I am going in a difference direction."

22. In a subsequent text message from Gregory N. Brown, defendant's Vice President for Finance and Administration, Mr. Frescoln was told, "[y]our actions and disrespect for others in the workplace are unacceptable to the work of the department or the College," and that "your poor comportment on the job has led to our decision to sever your employment."

23. There was no basis in fact for the statements made by Mr. Hill and Mr. Brown about Mr. Frescoln's demeanor, attitude or job performance.

24. Mr. Frescoln suffered, is now suffering and will continue to suffer emotional distress, mental anguish, loss of enjoyment of life and other non-pecuniary losses as a direct and proximate result of the racially hostile work environment created, perpetuated and condoned by defendant.

25. Defendant created, perpetuated and condoned a racially hostile work environment, discriminated against Mr. Frescoln and terminated his employment because of his race.

26. Solely by reason of defendant's race discrimination and creation of a racially hostile work environment, Mr. Frescoln suffered extreme harm, including loss of income and other employment benefits, loss of professional opportunities, embarrassment and humiliation.

27. Defendant acted and failed to act willfully, maliciously, intentionally and with reckless disregard for Mr. Frescoln's rights.

Count I

The Civil Rights Act of 1866, 42 U.S.C. §1981

28. Plaintiff restates and realleges paragraphs 1-29, inclusive, as though set forth here in full.

29. Mr. Frescoln had a federal statutory right under the Civil Rights Act of 1866, 42 U.S.C. §1981 ("Section 1981"), as amended, to be accorded the same rights as were enjoyed by non-White employees with respect to the terms and conditions of their employment relationship with defendant and to the enjoyment of all benefits, privileges, terms and conditions of that relationship.

30. Defendant's conduct described above deprived Mr. Frescoln of the rights, privileges and immunities guaranteed to him under Section 1981.

31. Solely by reason of defendant's race discrimination and creation of a racially hostile work environment, Mr. Frescoln is entitled to all legal and equitable relief available under Section 1981.

Jury Demand

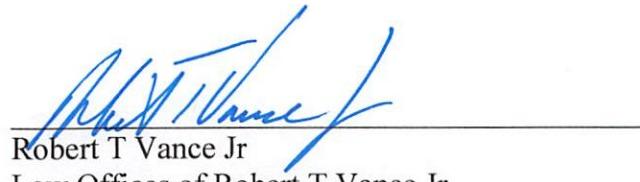
32. Mr. Frescoln hereby demands a trial by jury as to all issues so triable.

Prayer for Relief

Wherefore, Plaintiff, Drew Frescoln, respectfully prays that the Court:

- a. adjudge, decree and declare that defendant has engaged in illegal race discrimination, and that the actions and practices of defendant complained of herein are violative of her rights under Section 1981;
- b. order defendant to provide appropriate job relief to Mr. Frescoln, including reinstatement;
- c. enter judgment in favor of Mr. Frescoln and against defendant for all available remedies and damages under law and equity, including, but not limited to, back pay, front pay, past and future mental anguish and pain and suffering, in amounts to be determined at trial;
- d. order defendant to pay the attorney's fees, costs, expenses and expert witness fees of Mr. Frescoln associated with this case pursuant to 42 U.S.C. § 1988;
- e. grant such other and further legal and equitable relief as may be found appropriate and as the Court may deem just or equitable; and
- f. retain jurisdiction until such time as the Court is satisfied that defendant has remedied the unlawful and illegal practices complained of herein and is determined to be in full

compliance with the law.



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